

In re: Robert C. Hightower
Application No.: 10/602,899
Filed: June 24, 2003
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In the Drawings:

Please replace drawing sheets 1/4, 2/4 and 3/4 with the attached replacement drawing sheets.

REMARKS

Applicant appreciates the thorough review of the present application as reflected in the Office Action mailed September 23, 2005. As discussed below, Applicant has filed amended drawings to address the objection thereto, and has amended each of the independent claims to address the rejections under 35 U.S.C. § 112. Applicant has also amended Claims 1 and 16 to highlight various of the unique features of the corner protectors according to embodiments of the present invention. Applicant has also amended dependent Claims 10 and 17, and added new dependent Claims 29-30. Claim 24 has been cancelled. For the reasons discussed below, Applicant respectfully traverses the rejections under 35 U.S.C. § 102 and 103 set forth in the Office Action in light of the above amendments to the claims and the arguments presented herein.

I. The New Drawings and the Amendment to the Specification

Attached hereto are replacement drawings for Figures 1 and 4 which show an example embodiment of the "indicia" 21 recited in Claim 8. A replacement paragraph has also been provided for the specification that adds the reference numeral "21" to the paragraph describing the indicia.

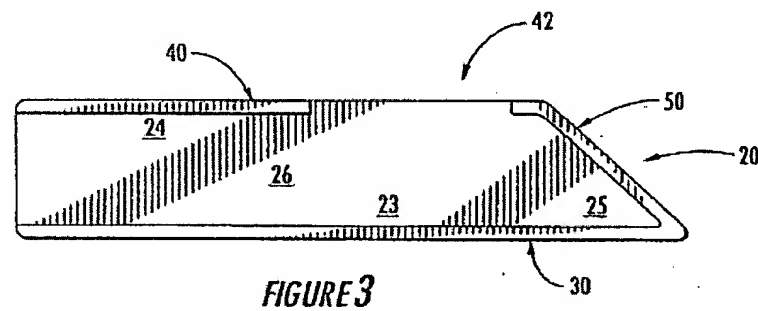
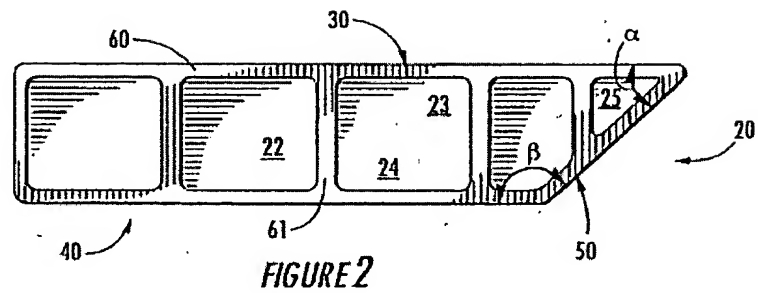
Attached hereto is a replacement drawing for Figure 2 which corrects a typographical error (rib 62 had been inadvertently labeled 61).

II. The Rejections Under 35 U.S.C. § 112

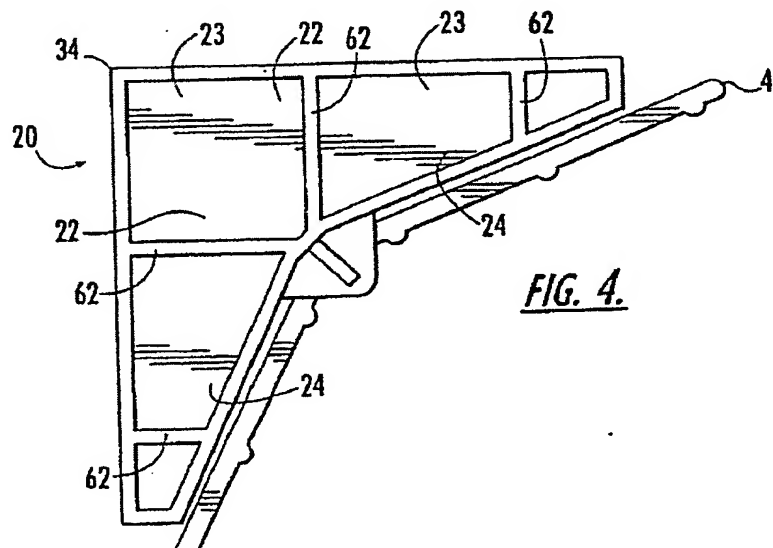
Claims 1-28 stand rejected under 35 U.S.C. § 112, ¶ 2 as being indefinite based on the term "or the like" included in each of the independent claims. Applicant has amended each of the independent claims to remove the objectionable subject matter.

III. The Rejections Under 35 U.S.C. § 102 Based on Marsh

Claims 1-5, 7 and 9-15 stand rejected under 35 U.S.C. § 102(b) as being anticipated by the connector disclosed in Fig. 1 of U.S. Patent No. 6,368,694 to Marsh et al. ("Marsh"). (Office Action at 3, ¶ 6). Applicant respectfully traverses this rejection. The next to last clause of Claim 1 recites that "the side wall and the outer wall merge to form an acute angle." Figures 2 and 3 of the present application are reproduced below, which clearly illustrate this acute angle (angle alpha).



The Office Action states that wall 31 of the connector of Marsh comprises the "outer wall" of Claim 1 and that wall 30 of the connector of Marsh comprises the "side wall" of Claim 1. As is apparent from, for example, Fig. 4 of Marsh (reproduced below), walls 30 and 31 of Marsh (i.e., the top and left walls in Fig. 4) merge to **form a 90 degree angle labeled 34 in Fig. 4** as opposed to an "acute angle" as recited in Claim 1.



In addition, Claim 1 has further been amended to recite that "a portion of the inner wall adjacent the side wall is recessed to form an opening into a cavity defined by the inner wall, the outer wall and the side wall." Marsh likewise does not teach or disclose this recitation of Claim 1, as the alleged "inner wall" (arm member 40) of the connector of Marsh is not recessed to form an opening into a cavity, but instead extends beyond the wall 30. Thus, for each of the above reasons, Applicant respectfully submits that Marsh does not anticipate the subject matter of Claim 1, and that the rejection of Claim 1 based on Marsh should be withdrawn.

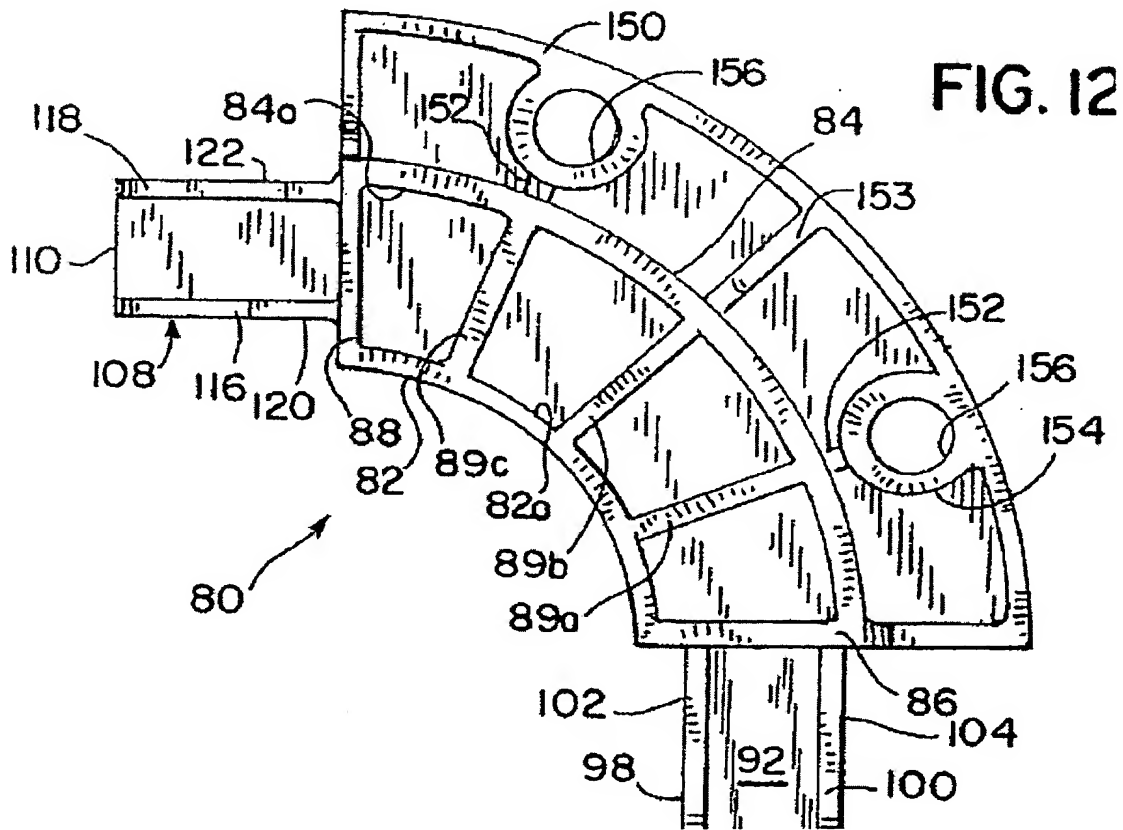
Claims 2-5, 7 and 9-15 each depend directly or indirectly from Claim 1. As such, each of these claims are patentable over Marsh as depending from a patentable base claim. In addition, Applicant respectfully submits that at least Claims 7 and 10 are separately patentable over Marsh. In particular, Claim 7 recites that "the acute angle is approximately 45 degrees." As noted above, the walls identified as the "side wall" and the "outer wall" of Marsh form a 90 degree angle, and hence do not disclose or suggest the subject matter of Claim 7. Claim 10, as amended recites that "the portion of the inner wall that is recessed is an end portion of the inner wall." As noted above, the arm member 40 of the connector of Marsh that is identified as the "inner wall" of Claim 1 does not include a recess at its end portion to form an opening into the cavity. Accordingly, Claim 10 is also independently patentable over Marsh.

IV. The Rejections Under 35 U.S.C. § 102 Based on Hornberger

Claims 1-6, 16-18 and 22-23 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,947,037 to Hornberger et al. ("Hornberger"). (Office Action at 3-4, ¶ 7). Applicant respectfully traverses these rejections.

As an initial matter, as noted above, last clause of Claim 1 recites that "the side wall and the outer wall merge to form an acute angle." The Office Action appears to take the position that the wall 84 of the connector of Hornberger comprises the "outer wall" of Claim 1 and states that the wall 86 or 88 of the connector of Hornberger comprises the "side wall" of Claim 1. As is apparent from, for example, Fig. 12 of Hornberger (reproduced below), the wall 84 comprises an arcuate wall that merges with the side walls 86, 88 at a 90 degree angle.

Consequently, Hornberger does not disclose or suggest that a protective device that includes a side wall and an outer wall that form an acute angle as recited in Claim 1.



In addition, Claim 1 has been amended to recite that "a portion of the inner wall adjacent the side wall is recessed to form an opening into a cavity defined by the inner wall, the outer wall and the side wall." Applicant respectfully submits that the table corner of Hornberger does not include any such recess. Consequently, for each of the above reasons, Applicant respectfully submits that Claim 1 is patentable over Hornberger.

Claim 16, as amended, recites that the side wall is "for protecting a second outside edge of the object." In contrast, the sidewalls 86/88 of the table corner of Hornberger receive a metal support 108, but do not serve to protect an outside edge of the table. In addition, Claim 16, like Claim 1, has been amended to recite that "a portion of the inner wall adjacent the side wall is recessed to form an opening into a cavity defined by the inner wall, the outer wall and the side wall." As noted above, the table corner of Hornberger does not include any such recess. Consequently, for each of the above reasons, Applicant respectfully submits that Claim 16 is also patentable over Hornberger.

Claims 17-18 and 22-23 are each patentable over Hornberger as depending from a patentable base claim. Applicant also respectfully submits that Hornberger does not disclose or suggest the subject matter added by at least Claims 17 and 22-23. In particular, as discussed above in Applicant's response to the rejection of Claim 1 based on Hornberger, Hornberger does not teach or disclose providing a side wall and an outer wall that connect to form an acute angle, let alone an angle of approximately 45 degrees or approximately 67 degrees. Hornberger likewise does not disclose that the side wall and the inner wall connect to form an obtuse angle. Thus, the rejections of Claims 17 and 22-23 should be withdrawn for these additional reasons.

V. The Rejections Under 35 U.S.C. § 102 Based on EP '614

Claim 28 stands rejected under 35 U.S.C. § 102(b) as being anticipated by European Patent No. 0 570 614 A1 ("the EP '614 patent"). (Office Action at 4, ¶ 8). The EP '614 patent discloses two piece corner protectors that fit over the corners of "flat work pieces." Thus, as is apparent from both the description and the figures of the EP '614 patent, the corner protectors described therein are designed to fit over a flat portion of the object to be protected, such as an extending wall of a piece of furniture.

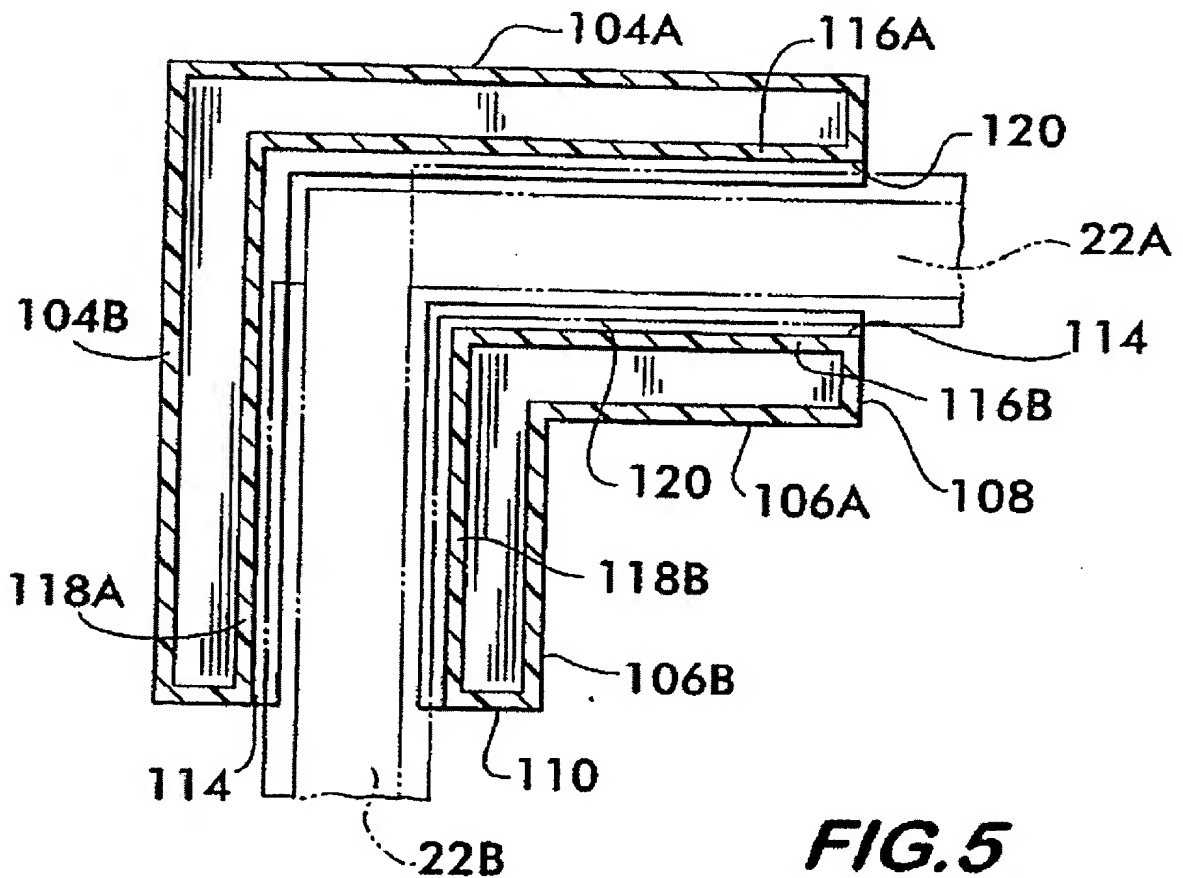
In contrast, Claim 28 is directed to a cabinet that comprises "an enclosure comprising a plurality of walls, wherein pairs of the walls merge to form a plurality of corners." No such enclosure has been identified in the EP '614 patent. More importantly, Applicant respectfully submits that the corner protector of the EP '614 patent could not be used to protect such a "corner", as the device instead is configured to protect corners of flat objects as opposed to corners formed by the walls of a cabinet enclosure. As such, the rejection of Claim 28 as anticipated by the EP '614 patent should also be withdrawn.

VI. The Rejections Under 35 U.S.C. § 102 Based on Mason

Claims 1-3, 7-16, 18-19 and 24-27 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,516,730 to Mason ("Mason"). (Office Action at 4-5, ¶ 10). Applicant also respectfully traverses these rejections.

As an initial matter, the next to last clause of Claim 1 recites that "the side wall and the outer wall merge to form an acute angle." The Office Action states that wall 116A of the "corner member" of Mason comprises the "outer wall" of Claim 1 and that wall 118A of the

corner member of Mason comprises the "side wall" of Claim 1. As is apparent from, for example, Fig. 5 of Mason (reproduced below), walls 116A and 118A of the device of Mason merge to **form a 90 degree angle** as opposed to an "acute angle" as recited in Claim 1. Accordingly, Applicant respectfully submits that Mason also does not anticipate the subject matter of Claim 1, and that the rejection of Claim 1 based on Mason should be withdrawn.



Claim 16 recites, among other things, that the "side wall connect[s] the outer wall to the inner wall." However, the identified "side wall" 118A of Mason clearly does not connect to the identified "outer wall" 116A of Mason to the identified "inner wall" 116B of Mason, as there is no connection between walls 116A and 116B. Accordingly, Mason likewise does not disclose the invention of Claim 16.

Claims 2-3, 7-15, 18-19 and 25-27 each depend either from Claim 1 or 16. Accordingly, each of these claims are patentable over Mason as depending from a patentable

base claim. In addition, Applicant submits that Mason does not disclose or suggest "an acute angle [of] approximately 45 degrees" as recited in Claim 7 or an "indicia indicating the side of the object on which the protective device is to be used" as recited in Claim 8.

Accordingly, at least Claims 7 and 8 are patentable over Mason for these additional reasons.

VII. The Rejections Under 35 U.S.C. § 103

Claims 20 and 21 stand rejected under 35 U.S.C. § 103(a) as being obvious over Mason in view of Marsh. (Office Action at 5-6, ¶ 13). Applicants respectfully traverse these rejections. As an initial matter, Applicant notes that neither Marsh nor Mason disclose or suggest a protective device having a "side wall connecting the outer wall to the inner wall" as recited in Claim 16. Both Claims 20 and 21 depend from Claim 16. As the identified combination of references fails to disclose all of the elements of Claims 20 and 21, the rejections of these claims should be withdrawn. Applicant also respectfully submits that one of skill in the art would not have been motivated to combine the teaching of Marsh and Mason as suggested in the pending rejections. While both Marsh and Mason disclose corner protectors, the corner protector of Mason comprises rail/guard members 22 that are provided over the outer edge of the pallet that is to be protected. (*See, e.g.*, Mason at Col. 4, lines 35-43). The corner members 102 are then placed on top of the guard members "to protect any item located on the pallet adjacent the corner of the pallet." (Mason at Col. 3, lines 1-9). Accordingly, corner members 102 of Mason are not in fact corner protectors, but instead are members that extend above the object to be protected (the pallet) to protect other articles that may be stacked on the object (the pallet). Applicant respectfully submits that to the extent a skilled artisan would have been motivated to combine anything from the disclosures of Marsh and Mason, such motivation would have existed at most with respect to the corner protecting components of the devices disclosed therein which, in the case of Mason, comprises the rail/guard members 22. A skilled artisan would not have tried to combine the features of two different elements that serve completely different purposes as suggested in the pending rejections. Applicant respectfully submits that this provides an additional basis for withdrawal of the rejections of Claims 20 and 21.

VIII. Conclusion

Inasmuch as the points and concerns raised in the Office Action have been addressed in full, Applicant respectfully requests that this application is in condition to pass to issue, which action is respectfully requested. Should the Examiner have any matters of outstanding resolution, he is encouraged to telephone the undersigned at 919-854-1400 for expeditious handling.

Respectfully submitted,

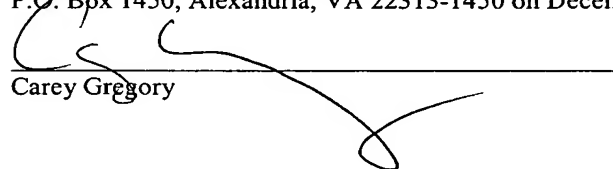


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Carey Gregory